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Subject: Char Biz Journal: Gov. Cooper intervenes to help Duke Energy, developers resolve solar dispute

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By John Downey — Senior Staff Writer, Charlotte Business Journal
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Gov. Roy Cooper and Rep. John Szoka (R-Cumberland) have intervened to resolve a thorny dispute between Duke Energy Corp. and independent developers that had blocked grid connections for more than 100 late-stage solar projects.

Within the next several days, regulators and the state's public utility advocate will publish a list containing dozens of solar projects subject to the settlement. Under that settlement, Duke must apply less limiting restrictions for those projects it unilaterally imposed last fall that blocked development. And Duke agrees to not place new, additional requirements on projects grandfathered for grid-connection approval under solar legislation adopted last summer.

In return, settling developers — through representative the N.C. Clean Energy Businesses Association — agree to not challenge rejections of connections for projects Duke makes under the agreed-upon restrictions.

'No new barriers'

Chris Carmody, executive director of NCCEBA, says the intervention broke a log jam in the last several weeks that had threatened to send the fight to court.

"This settlement will allow North Carolina companies and workers to bring dozens of projects and hundreds of megawatts of clean energy to our state's electric grid faster," Carmody says. "The settlement also insures that Duke will impose no new barriers on solar developers finalizing investments covered by House Bill 589."

HB 589 — the Competitive Energy Solutions for NC Act — was meant to settle the often-significant disputes between developers and Charlotte-based Duke (NYSE: DUK). But a new fight over how to implement it broke out last fall.

The issue is largely technical and impacts the number of solar projects that can be connected through a substation to Duke's distribution grid. In its simplest form, it involves what voltage rating is used to calculate the transformers' capacity at substations.

Three levels

The transformers for substations have nameplate voltage ratings for the load they can handle. They are based on the transformer's heat level.

But the ratings routinely include three levels for various conditions. Duke Energy Progress had always in the past chosen the highest nameplate capacity. In the fall, the utility adopted the practice of using the lowest nameplate rating.

That would have significantly reduced the number of projects that would connect to any one substation — and as a result, to Duke's distribution grid. Connecting those same projects to the transmission grid, as Duke suggested, would require the construction of private substations by the developers, leaving the projects no longer economically feasible.

Middle way

The settlement calls for Duke to compromise. The rating for a substation is based on the middle range. And if a project puts the substation over its middle-rating capacity — but below the highest — the project is not automatically rejected. Duke is required to consider whether transformer modifications can be made to accommodate the project.

That means most of the projects that could have connected under the original rule will still be able to connect.

Duke said in the fall that the change was made for safety reasons and it reflected the practice at other utilities, including some owned by Duke. But the industry called it an effort by Duke to erect new obstacles affecting up to 500 solar projects.

Those were projects already in the grid-connection queue before the General Assembly mandated a new competitive bidding process for new solar construction in Duke's service areas covering the Carolinas. That bidding process is expected to start this spring.

Court showdown

The law says the grandfathered projects should be considered for approval and grid connections under the state regulations that predated the law.

Carmody says that within weeks of Duke imposing new restrictions, both sides appeared to be headed for a court showdown "that would not have been good for anybody — the developers, the utility or the public."

Initial efforts appeared tepid. But talks took shape in the last five or six weeks as Cooper and Szoka pressed participants on what elected officials saw as the intent of the law adopted last summer, Carmody says.

Those talks picked up steam in recent days and resulted in the compromise NCCEBA announced Monday.

Duke response

Duke spokesman Randy Wheelless says Duke acknowledges that there has been important progress on an agreement in recent days. But the company will not comment on any details until the full agreement is published.

But he says the settlement talks demonstrate that Duke is interested in seeing solar continue to thrive in the state.

"We've gotten pretty good at resolving a lot of these contentious issues," he says. "We are trying to move solar ahead in North Carolina."

The full settlement is likely to be completed through a filing with the N.C. Utilities Commission in the near future, Carmody says.